

CRIMINAL YEAR SEMINAR

April 16, 2021
Webinar



DEFENSE PERSPECTIVE

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IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 8/21/20
AMY M. WOOD,
CLERK
BY: RB

BETH FAY,)	Court of Appeals
)	Division One
Petitioner,)	No. 1 CA-SA 20-0123
)	
v.)	Maricopa County
)	Superior Court
THE HONORABLE DEWAIN D. FOX,)	No. CR2015-005451-001
Judge of the SUPERIOR COURT OF)	
THE STATE OF ARIZONA, in and for)	
the County of MARICOPA,)	
)	
Respondent Judge,)	
)	
STATE OF ARIZONA; JORDAN MICHAEL)	
HANSON,)	
)	
Real Parties in Interest.)	
)	

ORDER ACCEPTING JURISDICTION, DENYING RELIEF

The Court, Judge Jennifer M. Perkins presiding, and Judges David B. Gass and Michael J. Brown participating, has considered all filings and the arguments presented on August 19, 2020.

In this special action Petitioner Fay seeks relief from the superior court's April 14, 2020 ruling. The court struck her response opposing Real Party in Interest Hanson's Limited Petition for Post-Conviction Relief (Limited PCR), in which he requested a delayed appeal to challenge the Criminal Restitution Order (CRO) entered against him. The April 14 ruling specifically and only addressed Fay's right, as a victim, to weigh in on whether Hanson should be able to file a delayed appeal. The court

explicitly did not rule on whether Hanson should be able to file a delayed appeal, whether Fay has a right to participate in that appeal, or whether Fay may participate in the resolution of Hanson's pending Amended Petition for Post-Conviction Relief (Amended PCR).

We will not address those unripe questions regarding Fay's right to participate in either a delayed appeal or the resolution of Hanson's Amended PCR because both the proposed delayed appeal and the amended petition challenge the CRO. Whether Fay has constitutional, statutory, or rule-based rights to weigh in on such a challenge are questions for another day.

On the narrow issue remaining, we see no basis for granting relief. The sole question for the superior court in resolving Hanson's Limited PCR is whether the delay in filing this appeal "was not [Hanson's] fault." Ariz. R. Crim. P. 32.1(f). Arizona appropriately protects victims' rights vigorously, enshrining them in our Constitution through a Victims Bill of Rights, Ariz. Const. Art. 2, § 2.1; in statute through the Victims Bill of Rights Implementation Act, A.R.S. § 13-4401, et seq., and elsewhere; and in our procedural rules, Ariz. R. Crim. P. 39. We discern no constitutional, statutory, or rule-based right for Fay to weigh in on whether Hanson is at fault for this delay. While a delayed appeal could impact Fay's ability "to receive prompt restitution," Ariz. Const. Art. II, Section 2.1(A) (emphasis added), her general right to receive prompt restitution does not trump Hanson's specific right to a delayed appeal upon demonstration that he did not cause the delay.

IT IS ORDERED accepting jurisdiction and denying relief.

/S/

Jennifer M. Perkins, Presiding Judge

A copy of the foregoing
was sent to:

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Lisa Marie Martin
Treasure L VanDreumel
Lori L Voepel
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